

Title 415 - NEBRASKA DEPARTMENT OF ROADS - RAIL AND PUBLIC TRANSPORTATION DIVISION

Chapter 7 – Comprehensive Public Safety Program for Highway-Rail Grade Crossings

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NEBRASKA ADMINISTRATIVE CODE

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Chapter 7 – Comprehensive Public Safety Program for Highway-Rail Grade Crossings

001 PURPOSE

001.01 To establish rules and regulations for a comprehensive public safety program to deal with problems associated with public and private highway-rail grade crossings.

001.02 To establish a process for assessing the risk to the public from particular grade crossings and for reducing or eliminating such risk in a cost-effective and timely manner pursuant to the mandate of Nebraska Revised Statutes, Section 74-1342.

002 GRADE CROSSING SAFETY ASSESSMENT PROCESS

002.01 The grade crossing safety assessment process may include, but is not limited to consideration of the following factors:

- 002.01A Volume of trains.
- 002.01B Volume of motor vehicles, including character, function, and type of vehicular traffic through the crossing.
- 002.01C Number of tracks at the crossing.
- 002.01D Geometry of the crossing, including acute angles.
- 002.01E Sight-distance restrictions, if any.
- 002.01F Train and motor vehicle speed.
- 002.01G Accident history.
- 002.01H Character of proximate road network, including distance and travel time to adjacent crossings.
- 002.01I Frequency and duration of roadway blockage by trains, including citation history.
- 002.01J Emergency response routes, including alternatives.
- 002.01K Economic impact of crossing.
- 002.01L Current and foreseeable development in the vicinity of the crossing.
- 002.01M Location of schools, school bus routes, hospitals, police and fire stations.

002.02 The Grade Crossing Safety Assessment process shall be completed by the Department and shall include the following steps:

002.02A **CORRIDOR IDENTIFICATION.** For each county, the Department shall identify all crossings of railroad tracks by public or private roads, streets and highways. The Department, in its sole discretion, shall establish groups of two or more adjacent crossings to be separately identified as crossing corridors ("corridors"). Generally, a corridor shall only include crossings in the same county and shall not include both city street and county road crossings.

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002.02B CORRIDOR CLASSIFICATION. The Department shall classify each corridor as rural or urban, and as high density or low density.

002.02B1 An urban corridor is a corridor that includes a crossing located within the corporate limits of a city with a population greater than 5,000 residents. A rural corridor is a corridor that is not an urban corridor.

002.02B2 A high density corridor is a corridor that includes a crossing with an average of over 40 trains per day. A low density corridor is a corridor that is not a high density corridor.

002.02B3 A municipal crossing is a crossing located inside the corporate limits of any village or city.

002.02B4 A non-municipal crossing is a crossing located outside the corporate limits of any village or city.

002.02C CORRIDOR PRIORITIZATION. The Department shall prioritize the relative needs of corridors within each classification. A priority index value shall be calculated for each corridor based upon a weighted analysis of crossing collisions, crossing blockages and the use of the crossings for emergency services.

002.02D CORRIDOR IMPROVEMENTS OPTIONS

002.02D1 In the initial corridor prioritization process, the Department may consider the following primary corridor improvement options:

002.02D1A Crossing closures

002.02D1B Warning device upgrades

002.02D1C Installation of flashing light signals or flashing light signals with automatic gates

002.02D1D Construction of grade separation structure(s)

002.02D2 Other options may be considered during detailed Diagnostic Team Reviews.

002.02E CORRIDOR IMPROVEMENT EVALUATION. The Department may evaluate each improvement option based upon a weighted analysis of the following five factors: collisions, emergency response, blockage, economic significance and corridor improvement costs.

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003 DIAGNOSTIC TEAM REVIEW AND IMPROVEMENT RECOMMENDATIONS

003.01 DIAGNOSTIC TEAM REVIEW. After completing the process of identifying priority corridors, the Department shall annually select one or more of the priority corridors for a Diagnostic Team Review. A previously completed Diagnostic Field Inspection report may be used or updated by the Department.

003.02 CORRIDOR IMPROVEMENT PROPOSAL. Upon completing or updating a Diagnostic Team Review on a selected corridor, the Department may prepare and submit a specific corridor improvement proposal to the railroad company and the county or municipality in which the corridor is located and to any property owners who have the right to use a private crossing in the corridor. The proposal may include a timetable for completion of the improvements and funding options and obligations of the various entities. The following is a non-exclusive list of the crossing improvements that may be included in the specific corridor improvement proposal by the Department.

003.02A Construction of grade separation structure(s) for vehicles and/or pedestrians.

003.02B Closure of public or private grade crossings.

003.02C Installation or upgrade of passive or active warning devices.

003.02D Construction of crossings at new locations, or maintenance or reconstruction of crossings or the approach to crossings.

003.02E Improvement of sight distance at crossings.

003.02F Construction or modification of access roads.

003.02G Other improvements may include upgrading existing signal controllers, traffic light preemptive systems, active advance warning systems, special signing, public education, focused enforcement efforts, use of LED systems, converting the crossing from private to public, making crossing surface improvements or railroad operational changes.

003.03 Review of a corridor improvement proposal shall proceed as follows:

003.03A The municipality or county and the railroad owner or operator shall have 60 days to review the Department's specific corridor improvement proposal and to suggest revisions, additions or deletions. When requested, the Department will attend any public meetings to explain the specific corridor improvement proposal. If the Department and the municipality or county and/or the railroad owner or operator fail to agree to the specific corridor improvement proposal, including revisions, additions or deletions agreed to by the Department, then Sections 003.04 and 003.05 of this chapter shall apply.

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003.03B The party or parties served by a private crossing(s) shall have 60 days to review the Department's specific corridor improvement proposal and suggest revisions, additions or deletions. When requested, the Department will meet with affected parties to explain the corridor improvement proposal. If the Department and the party or parties served by the private crossing(s) fail to agree to the specific corridor improvement proposal, including revisions, additions or deletions agreed to by the Department, then Section 003.06 of this chapter shall apply.

003.04 After the sixty day period set out in Section 003.03 has elapsed, without agreement, the municipality or county shall have 90 additional days to complete the following:

003.04A Hold additional public meeting(s) if deemed necessary by the municipality or county including, if requested by the municipality or county, a presentation of the specific corridor improvement proposal by the Department.

003.04B Present the specific corridor improvement proposal to the municipality's or county's governing body for formal approval or disapproval.

003.04C Upon approval or disapproval, mail to the Department, by certified mail, a written approval or disapproval by the governing body of the municipality or county.

003.04D In the event that the municipality or county formally disapproves the Department's proposal, the municipality or county shall submit to the Department each reason why the Department's proposal was not approved and a counterproposal, signed by the chief executive of the municipality or county, detailing a crossing improvement counterproposal for crossings in the corridor to which the municipality or county has formally bound itself to accept in lieu of the Department's proposal.

003.05 After the 60-day period set out in Section 003.03 of this chapter has elapsed, without agreement, the railroad and the railroad track owner or operator shall have 90 additional days to complete the following:

003.05A Attend public meetings, if requested by the municipality, county or Department.

003.05B Mail to the Department, by certified mail, a written approval or disapproval of the proposal.

003.05C In the event that the railroad and/or the railroad track owner disapproves of the Department's proposal, the railroad owner and/or operator shall submit to the Department in writing each reason why the Department's proposal was not approved and a written counterproposal, signed by a person authorized to bind the railroad and/or railroad track owner, detailing a crossing improvement counterproposal to which the railroad and/or railroad track owner has formally bound itself to accept in lieu of the Department's proposal.

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003.06 After the 60-day period set out in Section 003.03 of this chapter has elapsed, without agreement, the party or parties served by a private crossing(s) in the corridor shall have 90 additional days to mail to the Department by certified mail, a written approval or disapproval.

003.07 The Department shall review all information received from the municipality, county, or the party or parties served by a private crossing(s) and the railroad and/or railroad track owner and shall issue, by certified mail, an Order for Corridor Improvements detailing the improvements that it determines should be made to the crossings within the corridor, the timetable for completion of the improvements and funding options and obligations of the various entities.

003.08 The municipality, the county, the railroad and/or the railroad track owner or the party or parties who have a legal right to use the affected private crossing(s) may appeal the Order for Corridor Improvements by filing a Petition and request for hearing with the Department within 60 days after the date of the order issued by the Department. All aspects of the appeal shall be governed by the rules of procedure set out in Title 407.

004 REPORTING REQUIREMENTS

004.01 By November 1st of each year, the railroad company shall report to the Department in a format agreed to between the railroad and the Department, the average daily number of trains on each of its Nebraska lines.

004.02 On or about January 1st of each odd-numbered year, the Department will provide each local entity (municipalities and counties with public highway-rail grade crossings within their jurisdiction) with the Department's most recent estimate of the average daily number of vehicles for each public railroad crossing within that entity's jurisdiction. The local entity shall review the Department's estimates and report in writing to the Department by November 1 of that year, whether it agrees or disagrees with each of the Department's estimates. In the event the local entity disagrees with the Department's estimate for any crossing, the local entity shall report to the Department in writing its own estimate of the average daily number of vehicles for that crossing. If the local entity chooses to conduct its own traffic count or counts, the Department will provide, upon request, a traffic counting device to the local entity at no expense. Additionally, the local entity may at any time request a copy of data in the Department's inventory of the most recent estimate of the average daily number of vehicles for any public crossing within that entity's jurisdiction.

005 CROSSINGS BLOCKED BY A STOPPED TRAIN

005.01 A railroad company or a railroad track owner operating trains over tracks within the State of Nebraska shall not block a public highway-rail grade crossing, for a period of time in excess of ten (10) minutes, except if the train is moving in a continuous forward or backward direction, or if the train is stopped

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for an emergency condition, including an accident, derailment, critical mechanical failure, track or bridge washout, storm, flood, or other emergency situation.

005.02 A one-time exception of up to, but not exceeding, ten (10) additional minutes shall be authorized under the following conditions:

005.02A When a train and its crew, operating under the rules of the Federal Railroad Administration (FRA) is unable to complete a switching maneuver while setting out or picking up rail cars within the ten (10) minutes set forth in Section 005.01 of this chapter.

005.02B When a train is stopped to allow the passage of a second train and the stopped train has exhausted the ten (10) minutes set forth in Section 005.01 of this chapter, if the arrival of the second train is imminent and separation and coupling of the stopped train would result in further unnecessary blocking of the highway-rail public grade crossing.

005.03 When a train is cut or separated to prevent blocking of a highway-rail public grade crossing, the time required for re-coupling a train and performing air tests as required by the FRA will not be considered a violation of this section.

005.04 Every railroad shall be operated in such a manner as to minimize obstruction of emergency vehicles at highway-rail public grade crossings.

005.05 Trains blocking a public crossing for more than 10 minutes and not meeting the requirements of Sections 005.01 through 005.04 of this chapter shall break the train to provide access to the public. A train cut to clear a public crossing shall not leave cars, engines or equipment within 250 feet of the crossing.

006 MAINTENANCE AND REPAIR OF CROSSINGS WHEN RAILROAD LINE IS ABANDONED OR REMOVED

The following rules shall apply whenever the owner of a railroad line is granted, by proper authority, an abandonment of its rail line.

006.01 The owner of the rail line shall have the following duties:

006.01A To continue to protect, maintain and repair all active warning devices at all crossings until they are properly removed or a track out-of-service sign is placed in accordance with the MUTCD.

006.01B To promptly remove all active warning devices from crossings on the abandoned or removed lines. The railroad company shall cooperate with the Department to ensure that the devices are installed at another location on a line owned by the railroad or make the devices available to the Department for installation at a crossing on another railroad line.

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006.01C To remove all tracks, ties, switches and other structures within the area of the lateral clear zone applicable to the roadway and to resurface the crossing and restore the area within the lateral clear zone to a condition safe for the traveling public. The roadway shall be resurfaced with the same surfacing used on the road leading to the crossing.

006.01D To mow and treat weeds at the crossing within the area of the roadway lateral clear zone on the railroad company's right-of-way until the work prescribed in Section 006.01C of this chapter is completed.

006.02 The public entity with jurisdiction over the road leading to the crossing shall erect exempted grade crossing signs when and as required by statute and by the MUTCD.

006.03 The Department reserves its right to remove grade crossing warning devices at abandoned crossings to protect the State's investment in such devices.

ANNOTATION

**Title 415
Chapter 7**

**Enabling Legislation
74-1342
Neb. Rev. Stat.**

